

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

BRYAN A. DONEY,

Petitioner,

V.

MAGGIE MILLER-STOUT,

Respondent.

Case No. C06-5357 FDB

ORDER ADOPTING REPORT AND RECOMMENDATION

The Magistrate Judge recommends this habeas corpus petition be denied and dismissed with prejudice. The Petitioner challenges a conviction by jury trial for two counts of first degree child molestation. The Petitioner raises two grounds for review: (1) admissibility of Petitioner's signed written admissions and (2) sufficiency of the evidence.

As detailed by the Magistrate Judge, the issue concerning sufficiency of evidence is not raised or argued as a federal constitutional violation. This claim is procedurally defaulted and barred. See, Picard v. Connor, 404 U.S. 270, 276 (1971); Middleton v. Cupp, 768 F.2d 1083, 1086 (9th Cir. 1985). Addressing the admissibility of Petitioner's admissions, the Magistrate Judge found The Washington Court of Appeals conducted the proper review and its ruling is not a decision that was contrary to, or involved an unreasonable application of, clearly established federal law, as determined

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1 by the Supreme Court. Nor is the state court's ruling a decision that was based on an unreasonable
2 determination of the facts in light of the evidence presented to the state courts. The credibility
3 determinations made by the trial court are supported by substantial evidence. Petitioner is not
4 entitled to relief.

5 The Court, having reviewed the petition for habeas corpus, the Report and Recommendation
6 of Judge J. Kelly Arnold, United States Magistrate Judge, and the remaining record, does hereby find
7 and Order:

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9 (1) The Court adopts the Report and Recommendation;
10 (2) The petition is **DISMISSED WITH PREJUDICE** for the reasons stated in the
11 Report and Recommendation
12 (3) The clerk is directed to send copies of this Order to Petitioner, and to the Hon. J.
13 Kelley Arnold.

14 DATED this 3rd day of January, 2007.

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17 FRANKLIN D. BURGESS
18 UNITED STATES DISTRICT JUDGE
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